



DEPARTMENT OF COMMERCE

International Trade Administration

[A-552-801]

Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review; 2012-2013

AGENCY: Enforcement and Compliance, International Trade Administration, Commerce.

SUMMARY: The Department of Commerce (“the Department”) published the *Preliminary Results* of the tenth administrative review of the antidumping duty order on certain frozen fish fillets (“fish fillets”) from the Socialist Republic of Vietnam (“Vietnam”) on July 11, 2014.¹ We gave interested parties an opportunity to comment on the *Preliminary Results*. Based upon our analysis of the comments and information received, we made changes to the margin calculations for these final results. The final dumping margins are listed below in the “Final Results of the Administrative Review” section of this notice. The period of review (“POR”) is August 1, 2012, through July 31, 2013.

DATES: *Effective* [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Paul Walker or Steven Hampton, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone 202-482-0413 or 202-482-0116, respectively.

¹ See *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Preliminary Results of the Antidumping Duty Administrative Review; 2012–2013*, 79 FR 40059 (July 11, 2014) (“*Preliminary Results*”), and accompanying Preliminary Decision Memorandum.

SUPPLEMENTARY INFORMATION:

Background

The Department published the *Preliminary Results* on July 11, 2014.² Between September 19 and October 2, 2014, interested parties submitted case and rebuttal briefs. On October 22, 2014, the Department extended the deadline for the final results to December 11, 2014.³ On November 12, 2014, the Department held a closed hearing and a public hearing limited to issues raised in the case and rebuttal briefs. On November 19, 2014, the Department fully extended the deadline for the final results to January 7, 2015.⁴

Scope of the Order

The product covered by the order is frozen fish fillets, including regular, shank, and strip fillets and portions thereof, whether or not breaded or marinated, of the species *Pangasius Bocourti*, *Pangasius Hypophthalmus* (also known as *Pangasius Pangasius*) and *Pangasius Micronemus*. These products are classifiable under tariff article code 0304.62.0020 (Frozen Fish Fillets of the species *Pangasius*, including basa and tra), and may enter under tariff article codes 0305.59.0000, 1604.19.2100, 1604.19.3100, 1604.19.4100, 1604.19.5100, 1604.19.6100 and

² See *Preliminary Results*.

³ See Memorandum to Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, through James C. Doyle, Director, Office V, Antidumping and Countervailing Duty Operations from Steven Hampton, International Trade Compliance Analyst, Office V, Antidumping and Countervailing Duty Operations regarding Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Extension of Deadline for Final Results of Antidumping Duty Administrative Review, dated October 22, 2014.

⁴ See Memorandum to Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, through James C. Doyle, Director, Office V, Antidumping and Countervailing Duty Operations from Steven Hampton, International Trade Compliance Analyst, Office V, Antidumping and Countervailing Duty Operations regarding Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Second Extension of Deadline for Final Results of Antidumping Duty Administrative Review, dated November 19, 2014.

1604.19.8100 of the Harmonized Tariff Schedule of the United States (“HTSUS”).⁵ Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.⁶

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in this review are addressed in the Issues and Decision Memorandum. A list of the issues which parties raised is attached to this notice as an appendix. The Issues and Decision Memorandum is a public document and is on file in the Central Records Unit (“CRU”), Room 7046 of the main Department of Commerce building, as well as electronically via Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (“ACCESS”).⁷ ACCESS is available to registered users at <http://access.trade.gov> and in the CRU. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the Internet at <http://enforcement.trade.gov/frn/index.html>. The signed Issues and Decision Memorandum and the electronic version of the Issues and Decision Memorandum are identical in content.

⁵ Until June 30, 2004 these products were classifiable under HTSUS 0304.20.6030, 0304.20.6096, 0304.20.6043 and 0304.20.6057. From July 1, 2004 until December 31, 2006 these products were classifiable under HTSUS 0304.20.6033. From January 1, 2007 until December 31, 2011 these products were classifiable under HTSUS 0304.29.6033. On March 2, 2011 the Department added two HTSUS numbers at the request of U.S. Customs and Border Protection (“CBP”) that the subject merchandise may enter under: 1604.19.2000 and 1604.19.3000, which were changed to 1604.19.2100 and 1604.19.3100 on January 1, 2012. On January 1, 2012 the Department added the following HTSUS numbers at the request of CBP: 0304.62.0020, 0305.59.0000, 1604.19.4100, 1604.19.5100, 1604.19.6100 and 1604.19.8100.

⁶ For a complete description of the scope of the order, *see* Memorandum to Paul Piquado, Assistant Secretary for Enforcement and Compliance, from Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, regarding Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Issues and Decision Memorandum for the Final Results of the Tenth Antidumping Duty Administrative Review; 2012-2013, at 2-3 (“Issues and Decision Memorandum”), dated concurrently with and hereby adopted by this notice.

⁷ On November 24, 2014, Enforcement and Compliance changed the name of its centralized electronic service system to ACCESS. The website location was changed from <http://iaaccess.trade.gov> to <http://access.trade.gov>. The Final Rule changing the references to the centralized electronic service system to ACCESS in the Department’s regulations can be found at 79 FR 69046 (November 20, 2014).

Changes Since the *Preliminary Results*

Based on a review of the record and comments received from interested parties regarding our *Preliminary Results*, and for the reasons explained in the Issues and Decision Memorandum, we revised the margin calculation for HVG.⁸ The Surrogate Values Memo contains further explanation of our changes to the surrogate values selected for HVG's factors of production.⁹ The Department also has revised the separate rate status for Can Tho Import-Export Joint Stock Company ("CASEAMEX").¹⁰

Final Determination of No Shipments

In the *Preliminary Results*, the Department preliminarily determined that An Giang Agriculture and Food Import-Export Joint Stock Company ("Afiex"); Golden Quality Seafood Corporation ("Golden Quality"); Hoa Phat Seafood Import-Export and Processing J.S.C. ("Hoa Phat"); and To Chau Joint Stock Company ("To Chau") did not have any reviewable transactions during the POR.¹¹ Consistent with the Department's refinement to its assessment practice in non-market economy ("NME") cases, we completed the review with respect to the above-named companies.¹² Based on the certifications submitted by Afiex, Golden Quality, Hoa Phat, and To Chau, and our analysis of CBP information, we continue to determine that these companies did not have any reviewable transactions during the POR. As noted in the "Assessment Rates"

⁸ The Hung Vuong Group, or "HVG," includes: An Giang Fisheries Import & Export Joint Stock Company, Asia Pangasius Company Limited, Europe Joint Stock Company, Hung Vuong Joint Stock Company, Hung Vuong Mascato Company Limited, Hung Vuong – Vinh Long Co., Ltd., and Hung Vuong – Sa Dec Co., Ltd. *See Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of the Antidumping Duty Administrative Review and New Shipper Review*, 2011–2012, 79 FR 19053 (April 7, 2014) and accompanying Issues and Decision Memorandum at 3.

⁹ *See* Memorandum to the File, through Scot T. Fullerton, Program Manager, Office V, Enforcement & Compliance, from Paul Walker, Case Analyst, regarding Tenth Administrative Review of Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Surrogate Values for the Final Results, dated concurrently with and hereby adopted by this notice.

¹⁰ *See* accompanying company-specific analysis memoranda, dated concurrently with and hereby adopted by this notice.

¹¹ *See Preliminary Results*, 79 FR at 40060.

¹² *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694, 65694–65695 (October 24, 2011).

section below, the Department intends to issue appropriate instructions to CBP for the above-named companies based on the final results of the review.

Application of Adverse Facts Available And The Rate Assigned To The Vietnam-Wide Entity

As stated in the *Preliminary Results*, the Vietnam-wide entity, which includes Anvifish Joint Stock Company (“Anvifish”), failed to cooperate to the best of its ability in providing requested information because it withheld requested information, failed to provide the information in a timely manner and in the form requested, and significantly impeded this proceeding.¹³ The Department has not received any information since the *Preliminary Results* that calls into question that earlier determination. Accordingly, pursuant to sections 776(a)(2)(A), (B), and (C) and section 776(b) of the Tariff Act of 1930, as amended (“the Act”), we continue to find it appropriate to assign the Vietnam-wide entity a rate based on total adverse facts available (“AFA”).

Final Results of the Review

The dumping margins for the final results of this administrative review are as follows:

¹³ See Preliminary Decision Memorandum, at 8-12.

Exporter	Margins (Dollars/ Kilogram) ¹⁴
Hung Vuong Group ¹⁵	0.97
An Giang Agriculture and Food Import-Export Joint Stock Company	(*)
Asia Commerce Fisheries Joint Stock Company	0.97
Binh An Seafood Joint Stock Company	0.97
Cadovimex II Seafood Import-Export and Processing Joint Stock Company	0.97
C.P. Vietnam Corporation	0.97
Cuu Long Fish Joint Stock Company	0.97
Dai Thanh Seafoods Company Limited	0.97
Fatifish Company Limited	0.97
GODACO Seafood Joint Stock Company	0.97
Golden Quality Seafood Corporation	(*)
Hiep Thanh Seafood Joint Stock Company	0.97
Hoang Long Seafood Processing Company Limited	0.97
Hoa Phat Seafood Import-Export and Processing J.S.C.	(*)
International Development and Investment Corporation	0.97
Nam Viet Corporation	0.97
Ngoc Ha Co., Ltd. Foods Processing and Trading	0.97
NTSF Seafoods Joint Stock Company	0.97
Quang Minh Seafood Company Limited	0.97
QVD Food Company Ltd. ¹⁶	0.97

¹⁴ In the third administrative review of this order, the Department determined that it would calculate per-unit assessment and cash deposit rates for all future reviews. *See Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review and Partial Rescission*, 73 FR 15479 (March 24, 2008).

¹⁵ This rate is applicable to the Hung Vuong Group, which includes: An Giang Fisheries Import and Export Joint Stock Company, Asia Pangasius Company Limited, Europe Joint Stock Company, Hung Vuong Joint Stock Company, Hung Vuong Mascato Company Limited, Hung Vuong – Vinh Long Co., Ltd., and Hung Vuong – Sa Dec Co., Ltd.

Saigon-Mekong Fishery Co., Ltd.	0.97
Southern Fisheries Industries Company Ltd.	0.97
TG Fishery Holdings Corporation	0.97
Thien Ma Seafood Company Limited	0.97
Thuan An Production Trading and Services Co., Ltd.	0.97
To Chau Joint Stock Company	(*)
Vinh Quang Fisheries Joint-Stock Company	0.97
Vietnam-Wide Rate ¹⁷	2.39

*No Shipments or sales in this review, and the firm has an individual rate from a prior segment of the proceeding in which the firm had shipments or sales.

The Department will disclose calculations performed for these final results to the parties within five days of the date of publication of this notice, in accordance with section 351.224(b) of the Department's regulations.

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b), the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. The Department intends to issue appropriate assessment instructions directly to CBP 15 days after publication of the final results of this administrative review.

¹⁶ This rate is also applicable to QVD Dong Thap Food Co., Ltd. ("Dong Thap") and Thuan Hung Co., Ltd. ("THUFICO"). In the second review of this order, the Department found QVD, Dong Thap and THUFICO to be a single entity, and because there has been no evidence submitted on the record of this review that calls this determination into question, we continue to find these companies to be part of a single entity. Therefore, we will assign this rate to the companies in the single entity. See *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 53387 (September 11, 2006).

¹⁷ The Vietnam-wide rate also includes the following companies which are under review, but which did not submit a separate rate application or certification: East Sea Seafoods Limited Liability Company and Anvifish Joint Stock Company. The Vietnam-wide rate also includes Can Tho Import-Export Joint Stock Company.

For assessment purposes, we calculated importer (or customer)-specific assessment rates for merchandise subject to this review. We will continue to direct CBP to assess importer specific assessment rates based on the resulting per-unit (*i.e.*, per kg) rates by the weight in kgs of each entry of the subject merchandise during the POR. Specifically, we calculated importer specific duty assessment rates on a per-unit rate basis by dividing the total dumping margins (calculated as the difference between normal value and export price, or constructed export price) for each importer by the total sales quantity of subject merchandise sold to that importer during the POR. If an importer (or customer)-specific assessment rate is *de minimis* (*i.e.*, less than 0.50 percent), the Department will instruct CBP to assess that importer (or customer's) entries of subject merchandise without regard to antidumping duties, in accordance with 19 CFR 351.106(c)(2).

The Department determines that Afiex, Golden Quality, Hoa Phat, and To Chau did not have any reviewable transactions during the POR. As a result, any suspended entries that entered under these exporter's case numbers (*i.e.*, at that exporter's rate) will be liquidated at the Vietnam-wide rate.¹⁸

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) for the exporters listed above, the cash deposit rate will be the rate established in the final results of review (except, if the rate is zero or *de minimis*, *i.e.*, less than 0.5 percent, a zero cash deposit rate will be required for that company); (2) for previously

¹⁸ See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011); see also Preliminary Decision Memorandum, at 4-5.

investigated or reviewed Vietnamese and non-Vietnamese exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all Vietnamese exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the Vietnam-wide rate of \$2.39 per kg; and (4) for all non-Vietnamese exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the Vietnamese exporters that supplied that non-Vietnamese exporter. The deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers Regarding the Reimbursement of Duties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Notification Regarding Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing these administrative reviews and notice in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: January 7, 2015.

Paul Piquado,
Assistant Secretary
for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Final Decision Memorandum

General Issues

- I. Surrogate Country
 - A. Economic Comparability
 - B. Significant Producer of Comparable Merchandise
 - C. Data Considerations
- II. Surrogate Value for Whole, Live Fish
- III. Fingerlings
 - A. Surrogate Value for Fingerlings
 - B. Fingerling Yield Loss
 - C. Rejection of Fingerling Data
- IV. Surrogate Value for Fish Feed
- V. Surrogate Value for Lime
- VI. Surrogate Value for Antibiotics
- VII. Surrogate Value for Nutrition
- VIII. Surrogate Value for Salt
- IX. Surrogate Value for Preservatives
- X. Surrogate Value for Plastic Bags
- XI. Surrogate Value for Tape
- XII. Surrogate Value for Strap
- XIII. Surrogate Value for Electricity
- XIV. Surrogate Value for Diesel
- XV. Surrogate Value for Water
- XVI. Surrogate Value for Labor
- XVII. Movement Expenses
 - A. Surrogate Value for Truck Freight
 - B. Surrogate Value for Brokerage and Handling
 - C. Surrogate Value for International Freight
 - D. Surrogate Value for Boat Freight
- XVIII. Financial Ratios
- XIX. Surrogate Value for *Pangasius* By-Products

Company Specific Issues

- XX. Proper Reporting Period for HVG's Factors of Production
- XXI. CASEAMEX – Separate Rate Status
- XXII. Clerical Error – Draft CBP Instructions
- XXIII. Clerical Error – Customer Code

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